

**WASHINGTON COUNTY CODE**

**CHAPTER 16**

**ANIMAL WASTE STORAGE FACILITY**

- 16.01 INTRODUCTION**
- 16.02 GENERAL PROVISIONS**
- 16.03 ANIMAL WASTE STORAGE FACILITY PERMIT**
- 16.04 ADMINISTRATION**
- 16.05 VIOLATIONS**
- 16.06 APPEALS**

## CHAPTER 16

### ANIMAL WASTE STORAGE FACILITY

**16.01 INTRODUCTION.** (1) **Authority.** This chapter is adopted under authority granted by §92.16, Wis. Stats.

(2) **Title.** This chapter shall be known as, referred to, and may be cited as the Washington County Animal Waste Storage Facility Ordinance and is hereinafter referred to as the ordinance or the chapter, as the context requires.

(3)(AM 06-17) (AM 16-9) **Findings and Declaration of Policy.** (a) The Washington County Board finds that storage of animal waste in storage facilities not meeting technical design and construction standards may cause pollution of the ground and surface waters of Washington County, and may result in actual or potential harm to the public health, safety and welfare of the citizens of the County; to livestock, aquatic life and other animals and plants; and to the property tax base of the County.

(b) The County Board also finds that improper management of animal waste storage facilities, including improper land application of stored animal waste, may cause pollution of the ground and surface waters of Washington County.

(c) The County Board also finds that improperly abandoned or idle animal waste storage facilities may cause pollution of ground and surface waters of Washington County and may be considered a human health hazard.

(d) The County Board further finds that the technical standards developed by the U.S.D.A. Natural Resources Conservation Service (NRCS) and adopted by the County Land Conservation Committee, (sec. 15.05(1) of this Code) provide effective, practical and environmentally safe methods of storing and utilizing animal waste and proper methods for closure/reclamation of abandoned facilities.

(4)(AM 06-17) (AM 16-9) **Purpose.** The purpose of this chapter is to regulate the location, design, construction, installation, alteration, use and the abandonment of idle animal waste storage facilities; and the transfer of wastes to and from these facilities; in order to prevent water pollution and thereby protect the health of County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of the County. It is also intended to provide for the administration and enforcement of this chapter and to provide penalties for violations of this chapter.

(5)(AM 06-17) **Interpretation.** The provisions of this chapter shall be considered to be minimum requirements and shall be liberally construed in favor of the County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(6) (AM 16-9) **Severability Clause.** If any section, provision, or portion of this chapter is ruled invalid by a court, the remainder of the chapter shall not for that reason be rendered ineffective or invalid.

**16.02 GENERAL PROVISIONS.** (1)(AM 03-42)(AM 06-17) (AM 16-9) **Definitions.** For the purposes of this chapter, the following terms are defined:

(a) **Animal Waste.** Livestock excreta and other materials such as bedding, rain or other water, soil, hair, feathers, milkhouse waste products, contaminated runoff, waste processing derivatives and other pet debris normally included in animal waste handling operations.

(b) **Animal Waste Storage Facility.** A fabricated structure or an excavated or earthen impoundment specifically designed and made for the purposes of temporarily storing and holding of animal waste in excess of 175 cubic feet. Installation of a manure transfer system will be considered a waste storage facility for purposes of this chapter.

(c) **Applicant.** Any person who applies for a permit under this chapter.

(d) **Committee.** The Land Conservation Committee as established and more completely defined in Chapter 15 of the Washington County Code.

(e) **Department.** The Land and Water Conservation Division of the Planning and Parks Department having the responsibilities of implementing the programs and provisions set forth in this chapter.

(f) **Idle Animal Waste Storage Facility.** An animal waste storage facility that is abandoned, inactive or no longer used for its intended purpose.

(g) **Manure Transfer System.** A manure conveyance system using structures, conduits, or equipment. It includes transfer through a hopper, reception structure or tank, a pump, channel or conduit. Additional definitions and criteria are listed within the standard as identified in sec. 16.02(4) of this chapter.

(h) **Permit.** The signed, written statement issued by the Washington County Land and Water Conservation Division of the Planning and Parks Department under this chapter authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter an animal waste storage facility.

(i) **Permittee.** Any person to whom a permit is issued under this chapter.

(j) **Person.** Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, County, or State agency within Wisconsin, the Federal Government, or any combination thereof.

(k) **Substantially Altered.** A change to a structure or facility that results in its relocation or a significant change to the size, depth or configuration including; replacement of a liner, an increase in the volumetric capacity or area by greater than 20%, or a change in livestock management from one species of livestock to another such as cattle to horses.

## ANIMAL WASTE STORAGE FACILITY 16.02

(l) **Technical Guide.** The Wisconsin edition of the *Natural Resources Conservation Service Field Office Technical Guide* published by the Natural Resources Conservation Service of the U.S. Department of Agriculture, and adopted by the Washington County Land Conservation Committee per section 15.05 of this Code.

(m) **Water Pollution.** Contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.

(n) **Working Days.** Any day except Saturday and Sunday and holidays as listed in §7.05(2)(g) of the Washington County Code. When used in this section, relating to specific erosion control requirements, the term working days shall not include any days that site stabilization activities could not reasonably be carried out due to inclement weather conditions.

(2)(AM 06-17) **Applicability.** The requirements of this chapter shall apply to all unincorporated lands in the entire geographical area of the County. Activities subject to regulation include the construction, installation, reconstruction, enlargement, substantial alteration or closure of an animal waste storage facility by any person; whether such activities are engaged by the landowner or someone employed by the landowner, occurring after January 1, 1991.

(3) (AM 16-9) **Compliance with Permit Requirements.** A person is in compliance with this chapter if the procedures of this chapter are followed, a permit from the Department is issued before beginning activities subject to regulation under this section, and the permittee complies with the requirements of the permit.

(4)(AM 98-23)(AM 03-42)(AM 06-17) (AM 16-9) **Technical Standards.** (a) Applicable Conservation Practice Technical Standards. The technical standards listed below shall be adhered to during any activities permitted under the authority of this chapter. A copy of these standards can be obtained from the Department.

1. **Waste Storage Facilities.** The standards for design and construction of animal waste storage facilities are those in Practice Standards 313 (Waste Storage Facility), 634 (Manure Transfer) of the Field Office Technical Guide.

2. **Land Application of Animal Waste.** The standard for management and utilization of animal waste through land application with regard to preventing water pollution is found in Practice Standard 590 (Nutrient Management) of the Field Office Technical Guide.

3. **Abandoned Animal Waste Storage Facility.** The standard for closure of animal waste storage facilities is found in Practice Standard 360 (Waste Facility Closure) of the Field Office Technical Guide.

## ANIMAL WASTE STORAGE FACILITY 16.02

4. **Construction Site Erosion Control.** The standards for controlling soil erosion from construction sites are those technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources, as outlined in Chapter NR 151, Wis. Adm. Code, or the local municipality, whichever is more stringent.

(b) **Subsequent Modification of Standards.** The standards of the Field Office Technical Guide and the Wisconsin Department of Natural Resources as outlined in Chapter NR 151, Wis. Adm. Code are adopted and by reference made a part of this chapter as if fully set forth herein. Any future amendment, revision or modification of the standards incorporated herein are made part of this chapter unless otherwise amended by the Committee.

(c) **Variances.** Variances from these standards referenced herein can only be granted by the authority that established the applicable standard.

**16.03 ANIMAL WASTE STORAGE FACILITY PERMIT.** (1) (AM 16-9) **General.** No animal waste storage facility or parts thereof may be graded, excavated, located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered or its use changed without an animal waste storage facility permit as provided in this chapter, and without compliance with the provisions of this chapter. The requirements of this chapter shall be in addition to any other chapter or administrative rule regulating animal waste storage or applicable technical standards. In the case of conflict, the most stringent provisions shall apply.

(2) (AM 16-9) **Exceptions to Permit Requirement.** Emergency repairs such as repairing a broken pipe, or equipment, leaking dikes or the removal of stoppages may be performed without an animal waste storage facility permit. Such work shall be reported to the Department as soon as possible with a maximum of 2 working days for a determination as to whether an animal waste storage facility permit will be required for an additional alteration or repair to the facility. This chapter shall not require a permit for routine maintenance or repair of an existing animal waste storage facility or transfer equipment. In addition, no permit is required for barnyard construction or alteration which does not meet the definition of animal waste storage facility in sec. 16.02(1)(b) of this chapter.

(3) (AM 16-9) **Fees and Bonds.** Permit fees shall be established by the Land Use and Planning Committee through the annual County budget process and shall be based on reasonable costs and expenses associated with administering the programs under this chapter. Fees are non-refundable and are due and payable at the time of application. The Department may require a cash bond or escrow until final certification of construction is received in accordance with sec. 16.03(6)(e) of this chapter.

(4)(AM 06-17) (AM 16-9) **Permit Application.** (a) An application for an Animal Waste Storage Facility Permit shall be filed with the Department on forms supplied by the Department and shall include a plan specifying the following:

1. A Management Assessment and Site Assessment as described in Practice Standard 313 or 634.

## ANIMAL WASTE STORAGE FACILITY 16.03

2. A sketch of the facility and its location in relation to buildings, roads, lot lines and other features within 250 feet, and homes within 500 feet of the proposed facility. The sketch shall be drawn to scale, with a scale no smaller than one inch equals 100 feet, including a North arrow.

3. The structural details, including dimensions, cross sections, and concrete thickness and reinforcement.

4. The location of any wells within 500 feet of the facility.

5. A time schedule for construction of the facility and name(s) of persons responsible for quality assurance.

6. A nutrient management plan which meets the standards specified in sec. 16.02(4) of this chapter.

7. A construction site erosion control plan which meets the standards specified in sec. 16.02(4) of this chapter.

8. Any other additional information required by the Department to determine compliance with this chapter.

(b) An application for closure of an idle animal waste storage facility shall include the information specified in sec. 16.03(4)(a)2-5, 7 and 8. The application process shall also include a description of the construction methods to be used, a description of compliance with the technical standards and the intended future use of the site.

(5)(AM 06-17) (AM 16-9) **Review of Application.** (a) The Department shall receive and review all permit applications.

(b) The Department shall determine if the proposed facility meets the required standards set forth in sec. 16.02(4) of this chapter. In making this determination, the Department may require a site inspection and/or may consult with an outside agency.

(c) Within twenty (20) working days, as defined in 16.02(1)(n), after receiving the completed application and fee, the Department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required from the applicant, the Department has twenty (20) working days from the receipt of the additional information in which to approve or disapprove the application. If, in addition to the applicant's information, the Department requires comment from an outside agency, the Department has twenty (20) working days from receipt of the comments from the outside agency in which to approve or disapprove the application.

(d) If the Department fails to approve or disapprove the permit application in writing within twenty (20) working days of the receipt of the permit application, receipt of additional applicant information, or receipt of outside agency comments, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued, but still follow requirements.

(e) The Department shall mail a copy of action taken by the Department and the permit to the appropriate Town Board. The Department may mail a copy of the action taken and permit to other agencies or units of government that may have jurisdiction over the proposed facility.

(6)(AM 06-17) (AM 16-9) **Permit Conditions.** All permits issued under this chapter shall be subject to the following conditions and requirements in addition to any other conditions or requirements imposed by the Committee, other state agencies or local units of government:

(a) Design and construction shall be carried out in accordance with the animal waste storage facility plan and applicable standards specified in sub. (4) above.

(b) The permittee shall give two (2) working days' notice to the Department before starting any construction activity authorized by the permit.

(c) The permittee certifies in writing that all other state, county, town, city, village, sanitary district, Army Corps of Engineers or other state or federally required permits will be obtained from the appropriate authorities. The Department may require proof of any permit known to be needed prior to issuing an animal waste storage facility permit.

(d) Approval in writing must be obtained from the Department prior to any modifications to the approved animal waste storage facility plan.

(e) The permittee and, if applicable, the contractor or professional engineer, licensed in the State of Wisconsin, shall certify in writing that the facility was installed as planned and designed. A copy of the signed certification sheet shall be given to the Department within 30 days of completion of installation. Department personnel may conduct site inspection during and following construction to determine that the facility was installed as planned and designed. Any approved changes made to the animal waste storage facility plans shall be specified in the certification sheet and approved by the Department.

(f) Unless an extension is granted by the Department, all activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void.

(7) **Permit Revocation.** The Department may revoke any permit issued under this chapter if the holder of the permit has misrepresented any material fact in the permit application or animal waste storage facility plan, or if the holder of the permit violates any of the conditions of the permit. The permittee shall be immediately notified of the revocation in writing giving the reason(s) for revocation.

**16.04 ADMINISTRATION.** (1)(AM 03-42) **Delegation of Authority.** The County Conservationist is authorized to administer and enforce this chapter.

(2)(AM 06-17) **Administrative Duties.** In the administration and enforcement of this chapter, the County Conservationist, or designated representative, shall:

(a) Keep an accurate record of all permit applications, animal waste storage facility plans, permits issued, inspections made, and other official actions.

(b) Review permit applications and issue permits in accordance with sub. 16.03(5) of this chapter.

(c) Inspect animal waste storage facility construction/closure to insure the facility is being constructed/closed according to plan specifications.

(d) Investigate complaints relating to compliance with this chapter.

(e) Perform other duties as specified in this chapter.

(f) Provide technical services to the applicant to the extent resources are available.

(3)(AM 01-8) **Inspection Authority.** The County Conservationist, or designated representative, is authorized to enter upon any lands affected by this chapter to inspect the land prior to or after permit issuance to determine compliance with this chapter pursuant to the authority granted by §92.07(14), Wis. Stats. Entry by the County Conservationist or designated representative may also be according to §66.0119, Wis. Stats. Refusal to grant permission to enter lands affected by this chapter for purposes of inspection may be grounds for denial of the permit or revocation thereof.

(4) (AM 16-9) **Enforcement Authority.** (a) The County Conservationist, or designated representative, is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this chapter. Notice is given by both posting upon the land where the violation occurs specifying the violation, and by mailing a copy of the order by certified mail or hand-delivered to the person whose activity is in violation of this chapter. The order shall specify that the activity must cease.

(b) Any permit revocation or order stopping work shall remain in effect unless reinstated, the County Conservationist, or designated representative, or by a court of general jurisdiction; or until the activity is brought into compliance with this chapter. The County Conservationist is authorized to refer any violation of this chapter or of an order stopping work issued pursuant to this chapter to the County Attorney for commencement of legal proceedings.



**16.05 VIOLATIONS.** (1) **Penalties.** Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be subject to a forfeiture of not less than \$10 or more than \$250 plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this chapter or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

(2) **Enforcement of Injunction.** As a substitute for, or an addition to forfeiture actions, the County may seek enforcement of any part of this chapter by court actions seeking injunctions or restraining orders.

**16.06 APPEALS.** (1) **Authority.** As authorized in sec. 15.03(6)(b) of this Code, the Committee shall act as an appeal authority under §68.09(2), Wis. Stats., and is therefore authorized to hear and decide appeals of any order, requirement, decision, or determination by the Department in administering this chapter.

(2) **Procedure.** The rules, procedures, duties and powers of the Committee and the provisions of Ch. 68, Wis. Stats., shall apply to appeals under this chapter.

(a) A request for an appeal shall be filed with the Department within 30 days of action or decision to be appealed. The appeal request shall specify whether an interpretation of chapter requirements or a variance is sought and the grounds thereof.

(b) The appeal shall be heard by the Committee at a regularly scheduled meeting with public notice as required by §19.81, Wis. Stats. The appeal shall be heard within 45 days of the date the appeal is filed with the Department. A copy of the meeting notice shall be sent to the applicant and the appropriate Town Board. The Department shall transmit to the Committee all documents constituting the record from which the appeal was taken.

(c) A written decision regarding the appeal shall be made within a reasonable time.

(d) The final decision on an appeal shall be in the form of a written determination signed by the Chairperson or Secretary of the Committee. The determination shall state the specific facts, which are the basis for the Committee's decision and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, deny the appeal for lack of justification or grant or deny the application for a variance. The reasons or justifications for granting an appeal including a description of the hardship or practical difficulty which was demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the Committee meeting.

(3) **Who May Appeal.** Appeals may be taken by any person having a substantial interest which is adversely affected by the order, requirement, decision, or determination made by the Department.

## ANIMAL WASTE STORAGE FACILITY 16.06

(4) (AM 16-9) **Variiances.** (a) Except as provided in sec. 16.02(4)(c), the Committee may upon appeal authorize a variance from the requirements of this chapter over which it has authority when, upon showing by the applicant, unnecessary hardship would result from a literal enforcement of this chapter. The granting of a variance for unnecessary hardship shall:

1. Be consistent with the spirit and purpose of this chapter as stated in sub. 16.01.
2. Not permit an activity or practice that may fail structurally or otherwise and cause significant water pollution or other offsite impacts.
3. Be due to unique circumstances and not to the general conditions of the area.
4. Not be granted for a self-created hardship.
5. Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the right of other persons.
6. Not be granted solely on the basis of economic gain or loss.
7. Not be granted solely on the fact that certain conditions existed prior to the effective date of the chapter.

(b) The Committee may authorize a variance from the requirements of this chapter contingent on the applicant receiving a variance from the technical standards through the Natural Resources Conservation Service or other qualified engineering authority. If public funds are involved, this may be a program requirement.